

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1877-PWS-E TCEQ ID: RN100677285 CASE NO.: 34984
RESPONDENT NAME: Eastex Lumber & Supply, LLC

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Eastex Forest Products, 5429 Hartwick Road, near Houston, Harris County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 28, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Andrea Linson-Mgbeoduru, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-1482; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Bobbie Schiel, Owner, Eastex Lumber & Supply, LLC, 5429 Hartwick Road, Houston, Texas 77093 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: September 14, 2007</p> <p>Date of NOV/NOE Relating to this Case: October 31, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failed to provide accurate up-to-date detailed as-built plans or record drawings and specifications for each treatment plant, pump station, and storage tank to Commission personnel at the time of the investigation [30 TEX. ADMIN. CODE § 290.46(n)(1) and TEX. HEALTH & SAFETY CODE § 341.035(a)(2)].</p> <p>2) Failed to provide a sanitary control easement that covers the land within 150 feet of Well Nos. 1 and 2 [30 TEX. ADMIN. CODE § 290.41(c)(1)(F)].</p> <p>3) Failed to maintain all distribution system lines in a watertight condition [30 TEX. ADMIN. CODE § 290.46(m)(4)].</p> <p>4) Failed to provide a well casing vent with openings that are covered with 16-mesh or finer corrosion resistant screen, facing downward, elevated, and are located as to minimize the drawing of contaminants into the well [30 TEX. ADMIN. CODE § 290.41(c)(3)(K)].</p> <p>5) Failed to conduct annual inspections on the water system's two pressure tanks [30 TEX. ADMIN. CODE § 290.46(m)(1)(B)].</p>	<p>Total Assessed: \$1,250</p> <p>Total Deferred: \$250 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$1,000</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. On October 1, 2007, conducted inspections on the water system's two pressure tanks;</p> <p>b. On October 1, 2007, provided a casing vent for Well No. 2; and</p> <p>c. On October 1, 2007, repaired the leaking valves located on the chlorine injection line and feed pump of Well No. 2.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 90 days after the effective date of this Agreed Order:</p> <p>i. Submit accurate up-to-date detailed as-built plans or record drawings and specifications for review and approval; and</p> <p>ii. Obtain a sanitary control easement that covers the land within 150 feet of Well Nos. 1 and 2.</p> <p>b. Within 105 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): PWS ID No. 1013311



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision September 19, 2007

TCEQ

DATES	Assigned	12-Nov-2007	Screening	20-Nov-2007	EPA Due	
	PCW	20-Nov-2007				

RESPONDENT/FACILITY INFORMATION

Respondent	Eastex Lumber & Supply, LLC		
Reg. Ent. Ref. No.	RN100677285		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	34984	No. of Violations	5
Docket No.	2007-1877-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Enf. Coordinator	Andrea Linson-Mgbeodur
Multi-Media		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,000
---	-------------------	---------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	5% Enhancement	Subtotals 2, 3, & 7	\$50
---------------------------	----------------	--------------------------------	------

Notes

Enhancement is due to one prior Notice of Violation with violations that are the same or similar to violations in the current enforcement action.

Culpability

No

0% Enhancement

Subtotal 4

\$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

0% Reduction

Subtotal 5

\$0

Before NOV

NOV to EDP RP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent does not meet the good faith criteria.

0% Enhancement*

Subtotal 6

\$0

Total EB Amounts

\$294

Approx. Cost of Compliance

\$2,050

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal

\$1,050

OTHER FACTORS AS JUSTICE MAY REQUIRE

19%

Adjustment

\$200

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Enhancement recommended for recovery of avoided costs of compliance.

Final Penalty Amount

\$1,250

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

\$1,250

DEFERRAL

20%

Reduction

Adjustment

-\$250

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$1,000

Screening Date 20-Nov-2007

Docket No. 2007-1877-PWS-E

PCW

Respondent Eastex Lumber & Supply, LLC

Policy Revision 2 (September 2002)

Case ID No. 34984

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN100677285

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement is due to one prior Notice of Violation with violations that are the same or similar to violations in the current enforcement action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 20-Nov-2007	Docket No. 2007-1877-PWS-E	PCW
Respondent Eastex Lumber & Supply, LLC	<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 34984	<small>PCW Revision September 19, 2007</small>	
Reg. Ent. Reference No. RN100677285		
Media [Statute] Public Water Supply		
Enf. Coordinator Andrea Linson-Mgbeoduru		
Violation Number	1	
Rule Cite(s)	30 Tex. Admin. Code § 290.46(n)(1) and Tex. Health & Safety Code § 341.035(a)(2)	
Violation Description	Failed to provide accurate up-to-date detailed as-built plans or record drawings and specifications for each treatment plant, pump station, and storage tank to Commission personnel at the time of the investigation. Specifically, during the investigation on September 14, 2007, the investigator documented that no approved as-built plans were provided.	
Base Penalty		\$1,000

>> Environmental, Property and Human Health Matrix

OR		Harm				
	Release	Major	Moderate	Minor		
	Actual					
	Potential				Percent	0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor		
		X				
					Percent	10%

Matrix Notes	100% of the rule requirement was not met.
---------------------	---

Adjustment	\$900
-------------------	-------

Violation Events	\$100
-------------------------	-------

Number of Violation Events	1	Number of violation days	67
----------------------------	---	--------------------------	----

<small>mark only one with an x</small>	daily		
	monthly		
	quarterly		
	semiannual		
	annual		
	single event	X	

Violation Base Penalty	\$100
-------------------------------	-------

One single event is recommended.	
----------------------------------	--

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount	\$59
	Violation Final Penalty Total
	\$125
This violation Final Assessed Penalty (adjusted for limits)	
\$125	

Economic Benefit Worksheet

Respondent Eastex Lumber & Supply, LLC

Case ID No. 34984

Reg. Ent. Reference No. RN100677285

Media Public Water Supply

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$1,000	14-Sep-2007	16-Jul-2008	0.8	\$3	\$56	\$59
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to prepare and submit accurate up-to-date detailed as-built plans and specifications. The date required is the investigation date. The final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$59

Screening Date 20-Nov-2007

Docket No. 2007-1877-PWS-E

PCW

Respondent Eastex Lumber & Supply, LLC

Case ID No. 34984

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN100677285

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.41(c)(1)(F)

Violation Description

Failed to provide a sanitary control easement that covers the land within 150 feet of Well Nos. 1 and 2.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			x

Percent 5%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Without a sanitary control easement, contaminants could enter the well and customers of the water supply could be exposed to insignificant amounts of contaminants that do not exceed levels protective of human health.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 2

67

Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

Two single events are recommended, based on one event per well, calculated from the investigation date, September 14, 2007, to the screening date, November 20, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$23

Violation Final Penalty Total \$125

This violation Final Assessed Penalty (adjusted for limits) \$125

Economic Benefit Worksheet

Respondent Eastex Lumber & Supply, LLC
Case ID No. 34984
Reg. Ent. Reference No. RN100677285
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$400	14-Sep-2007	16-Jul-2008	0.8	\$1	\$22	\$23
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to obtain a sanitary control easement or exceptions to the easement requirement. The date required date is the investigation date. The final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$400

TOTAL

\$23

Screening Date 20-Nov-2007**Docket No.** 2007-1877-PWS-E**PCW****Respondent** Eastex Lumber & Supply, LLC

Policy Revision 2 (September 2002)

Case ID No. 34984

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN100677285**Media [Statute]** Public Water Supply**Enf. Coordinator** Andrea Linson-Mgbeoduru**Violation Number** 3**Rule Cite(s)**

30 Tex. Admin. Code § 290.46(m)(4)

Violation Description

Failed to maintain all distribution system lines in a watertight condition. Specifically, during the investigation, the investigator documented leaking valves located on the chlorine injection line and the feed pump of Well No. 2.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%**Matrix Notes**

Failure to maintain a watertight condition could expose customers of the water supply to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 217 **Number of violation days**

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$200

Two quarterly events are recommended, based on one event for each leaking valve, calculated from the investigation date, September 14, 2007, to the screening date, November 20, 2007.

Economic Benefit (EB) for this violation**Statutory Limit Test****Estimated EB Amount** \$1**Violation Final Penalty Total** \$250**This violation Final Assessed Penalty (adjusted for limits)** \$250

Economic Benefit Worksheet

Respondent Eastex Lumber & Supply, LLC
 Case ID No. 34984
 Reg. Ent. Reference No. RN100677285
 Media Public Water Supply
 Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$400	14-Sep-2007	1-Oct-2007	0.0	\$0	\$1	\$1
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the amount to repair or replace the leaking valves located on the chlorine injection line and the feed pump at Well No. 2. The date required is the investigation date. The final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$400

TOTAL

\$1

Screening Date 20-Nov-2007

Docket No. 2007-1877-PWS-E

PCW

Respondent Eastex Lumber & Supply, LLC

Case ID No. 34984

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN100677285

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(3)(K)

Violation Description

Failed to provide a well casing vent with openings that are covered with 16-mesh or finer corrosion resistant screen, facing downward, elevated, and are located as to minimize the drawing of contaminants into the well. Specifically, during the investigation, the investigator documented that Well No. 2 did not have a casing vent.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Without a screened well casing vent for the well, insects, dust and other contaminants could expose the water supply to significant amounts of contaminants that would not exceed levels that are protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

17 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$100

One quarterly event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$125

This violation Final Assessed Penalty (adjusted for limits) \$125

Economic Benefit Worksheet**Respondent** Eastex Lumber & Supply, LLC**Case ID No.** 34984**Reg. Ent. Reference No.** RN100677285**Media** Public Water Supply**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment	\$50	14-Sep-2007	1-Oct-2007	0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the amount to install a screened well casing vent on Well No. 2. The date required is the investigation date. The final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs**Approx. Cost of Compliance**

\$50

TOTAL

\$0

Screening Date 20-Nov-2007

Docket No. 2007-1877-PWS-E

PCW

Respondent Eastex Lumber & Supply, LLC

Policy Revision 2 (September 2002)

Case ID No. 34984

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN100677285

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 5

Rule Cite(s)

30 Tex. Admin. Code § 290.46(m)(1)(B)

Violation Description

Failed to conduct annual inspections on the water system's two pressure tanks.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to perform inspections on the pressure tanks could result in non-detection of tank defects and a loss of tank integrity compromising the system's ability to supply an adequate supply of water resulting in customers of the water supply being exposed to a significant amount of contaminants which would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2

365 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	x
	single event	

Violation Base Penalty \$500

Two annual events are recommended, based on one annual event for each tank.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$210

Violation Final Penalty Total \$625

This violation Final Assessed Penalty (adjusted for limits) \$625

Economic Benefit Worksheet**Respondent:** Eastex Lumber & Supply, LLC**Case ID No.:** 34984**Reg. Ent. Reference No.:** RN100677285**Media:** Public Water Supply**Violation No.:** 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$200	14-Sep-2006	14-Sep-2007	1.0	\$10	\$200	\$210
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the amount to have the two pressure tanks inspected. The date required is one year prior to the investigation date.

Approx. Cost of Compliance

\$200

TOTAL

\$210

Compliance History

Customer/Respondent/Owner-Operator:	CN603259870	Eastex Lumber & Supply, LLC	Classification:	Rating:
Regulated Entity:	RN100677285	EASTEX FOREST PRODUCTS	Classification: HIGH	Site Rating: 0.00
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD026631630	
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	38135	
	STORMWATER	PERMIT	TXR05Q109	
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1013311	
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	45793	
	Location:	5429 HARTWICK ROAD, HOUSTON, HARRIS COUNTY, TX		Rating Date: September 01 07
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	November 26, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	November 12, 2002 to November 12, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Andrea Linson-Mgbeoduru		Phone:	512-239-1482

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 - 1 04/30/2004 (267697)
 - 2 08/15/2007 (570312)
 - 3 11/08/2007 (594567)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	04/30/2004	(267697)		
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)			
Description:	Failure to repair broken exterior ladder on ground storage tank.			
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.44(h)(4)(A)(i)			
Description:	Failure to provide a copy of the backflow prevention test results.			
Self Report?	NO		Classification:	Major
Citation:	30 TAC Chapter 290, SubChapter D 290.46(n)(1) 5A THC Chapter 341, SubChapter A 341.0315(c)			
Description:	Failure to secure the services of a registered professional engineer well versed in the design and construction of public water systems so that as-built plans and specifications can be prepared and submitted for our review.			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.43(c)(3)			
Description:	Failure to provide an overflow pipe on ground storage tank.			
Self Report?	NO		Classification:	Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(A)
Description: Failure to provide interior and exterior inspections on ground storage tanks.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
Description: Failure to provide copies of recorded sanitary control easements, an approved substitute, or an exception to the requirement for well #1 & #2.

F. Environmental audits.
N/A

G. Type of environmental management systems (EMSs).
N/A

H. Voluntary on-site compliance assessment dates.
N/A

I. Participation in a voluntary pollution reduction program.
N/A

J. Early compliance.
N/A

Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
EASTEX LUMBER & SUPPLY, LLC
RN100677285**

§ **BEFORE THE**
§
§ **TEXAS COMMISSION ON**
§
§
§ **ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1877-PWS-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Eastex Lumber & Supply, LLC ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a public water supply at 5429 Hartwick Road near Houston, Harris County, Texas (the "Facility") that has approximately 6 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 5, 2007.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of One Thousand Two Hundred Fifty Dollars (\$1,250) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Dollars (\$1,000) of the administrative penalty and Two Hundred Fifty Dollars (\$250) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to

- timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
 7. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
 8. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. On October 1, 2007, conducted inspections on the water system's two pressure tanks, in accordance with 30 TEX. ADMIN. CODE § 290.46(m)(1)(B);
 - b. On October 1, 2007, provided a casing vent for Well No. 2, in accordance with 30 TEX. ADMIN. CODE § 290.41(c)(3)(K); and
 - c. On October 1, 2007, repaired the leaking valves located on the chlorine injection line and feed pump of Well No. 2, in accordance with 30 TEX. ADMIN. CODE § 290.46(m)(4).
 9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
 10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
 11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to provide accurate up-to-date detailed as-built plans or record drawings and specifications for each treatment plant, pump station, and storage tank to Commission personnel at the time of the investigation, in violation of 30 TEX. ADMIN. CODE § 290.46(n)(1) and TEX. HEALTH & SAFETY CODE § 341.035(a)(2), as documented during an investigation conducted on September 14, 2007.
2. Failed to provide a sanitary control easement that covers the land within 150 feet of Well Nos. 1 and 2, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(F), as documented during an investigation conducted on September 14, 2007.

3. Failed to maintain all distribution system lines in a watertight condition, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(4), as documented during an investigation conducted on September 14, 2007.
4. Failed to provide a well casing vent with openings that are covered with 16-mesh or finer corrosion resistant screen, facing downward, elevated, and are located as to minimize the drawing of contaminants into the well, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(K), as documented during an investigation conducted on September 14, 2007.
5. Failed to conduct annual inspections on the water system's two pressure tanks, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1)(B), as documented during an investigation conducted on September 14, 2007.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Eastex Lumber & Supply, LLC, Docket No. 2007-1877-PWS-E " to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 90 days after the effective date of this Agreed Order:
 - i. Submit accurate up-to-date detailed as-built plans or record drawings and specifications for review and approval, in accordance with 30 TEX. ADMIN. CODE § 290.46.

The plans shall be submitted to:

Water Supply Division
Utility Creation & Plan Review Team, MC 153
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- ii. Obtain a sanitary control easement that covers the land within 150 feet of Well Nos. 1 and 2, in accordance with 30 TEX. ADMIN. CODE § 290.41.
- b. Within 105 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

- 3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- 4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be

made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

TCEQ

Fax: 5122394562

May 5 2008 10:00

P.02

Eastex Lumber & Supply, LLC
DOCKET NO. 2007-1877-PWS-E
Page 6

SIGNATURE PAGE**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

For the Commission


For the Executive Director

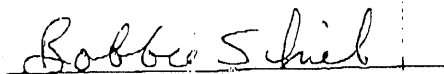
5/21/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

May-8-08
Date

Bobbie Schiel
Name (Printed or typed)
Authorized Representative of
Eastex Lumber & Supply, LLC

Owner
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

